

September 23, 1927

Arizona Highway Commission,  
Phoenix, Arizona

Gentlemen:

Attention: Mr. V. A. Wood

In reply to your request, we hand you herewith our opinion upon the following questions respecting the payment of rent for premises located near Holbrook and claimed by both Julius Wetzler and Lillian S. Howell.

1. The legal status of the Highway Department with respect to the amounts paid to Mr. Wetzler before notice that there was a controversy over this property.

The department has no claim against Mr. Wetzler for this money already paid unless it is shown that he was not entitled thereto and the Department is required to pay to the true owner. In that event the Department may recover back from Mr. Wetzler the money wrongfully collected.

2. The legal status with respect to the warrant which has been issued but not delivered drawn in favor of Mr. Wetzler.

3. The legal status with respect to bills which have been presented by both Mr. Wetzler and Mrs. Howell and have not been approved because of the controversy over the property.

We beg to advise that in respect to the last two questions, that the Department should refuse to approve or pay the claim of either party until they have settled the controversy and it is determined who is rightfully entitled to the money.

The data submitted to us does not disclose whether a written lease was entered into with respect to this property, but would indicate that such was not the case. Our opinion is based upon the assumption that no written lease was made.

Very truly yours,

STRUCKMEYER, JENNINGS & STROUSS

CLS:M

By